

### **REMARKS**

Claims 1-14 are pending in the application. The Examiner has rejected Claims 3-5, 7, 9, 11 and 13 under 35 U.S.C. §102(b) as being anticipated by Nanda et al. (U.S. Patent 5,842,113). The Examiner has rejected Claims 1 and 2 under 35 U.S.C. §103(a) as being unpatentable over Nanda et al. in view of Chen et al. (U.S. Patent 6,373,823). The Examiner has rejected Claims 6, 8, 10, 12 and 14 under 35 U.S.C. §103(a) as being unpatentable over Nanda et al. in view of Chen et al.

Regarding the rejections of independent Claims 1, 3, 5, 7, 9, 11 and 13, Nanda et al. discloses a method and apparatus for controlling transmission power in a forward link of a CDMA telecommunication system by generating a power offset value corresponding to the frame transmission rate. Chen et al discloses a method and apparatus for controlling transmission power in the mobile communication system, wherein the transmission power control is performed by comparing the measured signal to noise ratio (SNR) with a threshold value mentioned during a closed loop power control.

Applicants presented in the prior Response that the present application discloses a method and apparatus for performing power control irrespective of whether there is data to be transmitted, in which a frame error rate of the signal to noise ratio (SNR) and data transmission during discontinuous transmission is tabulated and the transmission power adjustment is performed by referring to a reference table. In this regard, the offset value for controlling the transmission power differs according to the gating rate. This is a fundamental distinction from the offset value of Nanda et al. defined according to the transmission rate. The Examiner states in the Response to Arguments section of the Office Action that the element of performing the power control whether or not there is data to be transmitted is not affirmatively recited in the claims and therefore was not considered. Claims 1, 3, 5, 7, 9, 11 and 13 have been amended to recite this element. Based on at least the foregoing, withdrawal of the rejections of 1, 3, 5, 7, 9, 11 and 13 is respectfully requested.

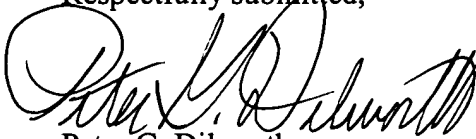
Second, Applicants respectfully submit that the distinctions between the claims of the present application with that which is disclosed by Nanda et al. are not being fully

appreciated. The claims of the present application recite that, in addition to whether or not there is data to be transmitted, the transmission power adjustment is based on both the frame error rate of the signal-to-noise ratio (SNR) and data transmission. Neither Nanda et al. nor Chen et al. discloses these elements. The Examiner states in the Response to Arguments section of the Office Action on page 8 that her understanding of the argument is that the adjustment of the transmission power is based on frame error rate and signal-to-noise ratio; this is not that which is recited in the claims of the present application. The argument presented in the prior Response stated that the transmission power is adjusted based on **both** the frame error rate **of** the signal-to-noise ratio (SNR) **and** data transmission. Applicants respectfully request a proper consideration of this argument. Based on at least the foregoing, withdrawal of the rejections of 1, 3, 5, 7, 9, 11 and 13 is respectfully requested.

Independent Claims 1, 3, 5, 7, 9, 11 and 13 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2, 4, 6, 8, 10, 12 and 14, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2, 4, 6, 8, 10, 12 and 14 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-14 are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

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